

J. Equalization of Regulations for LECs and CAPs

In ¶86 of the NPRM, the Commission asked whether rules and policies relating to price cap regulation should be revised to equalize the treatment of LECs and CAPs. As will be discussed in more detail below, competition by CAPs in the local access market is still in its infancy, where it exists at all. Given the current state of competition, and the Commission's long-standing policy of differentiating regulatory requirements as between dominant and non-dominant carriers,¹⁵ the time is not right for equalizing the treatment of LECs and CAPs. Sprint believes that the Commission's "expectation of increasing access competition" (¶86) will ultimately prove to be correct. As access competition develops, Sprint recognizes that the Commission will face difficult transitional issues in adapting its regulation of local exchange carriers to a changing competitive environment, while at the same time exercising care so that it does not abandon appropriate oversight of pricing and services prematurely. It is vastly premature to mandate equal treatment of LECs and CAPs at this juncture or to establish fixed standards when such equal regulation shall automatically occur.

However, Sprint supports appropriate changes to LEC regulation so that LECs may meaningfully meet the competition.

¹⁵ See, e.g., Competitive Carrier Rulemaking, 85 FCC 2d 1 (1980) (First Report and Order), 84 FCC 2d 445 (1981) (Further NPRM).

For example, in an April 4, 1994 Petition for Reconsideration in CC Docket No. 91-213, Sprint Communications Co. recommended several actions, including modification of LEC price cap regulation, the Commission should take to ensure that LEC rates for local transport services are more cost-related and to allow the LECs greater freedom to charge cost-based, non-discriminatory rates for local transport services in areas where they face competition.

K. Relationship to Other Proceedings

In the NPRM (§91), the Commission took note of the pendency of other proceedings (such as the Expanded Interconnection and Local Transport Restructure dockets, and various plans to reform the access charge structure), and asked for comment on the coordination of this review of LEC price caps with these other proceedings. The changes that Sprint has recommended above can and should be made without awaiting the initiation and/or completion of other, related proceedings.¹⁶ At the same time, the Commission should bear in mind that actions in these other proceedings may necessitate further revisions in price cap regulation as well, and any action taken here should not foreclose such other modifications in price caps that may prove to be appropriate in the future.

¹⁶ Sprint recommends that the Commission act swiftly on these pending matters because of their importance to the development of fair and full competition.

**III. TRANSITIONAL ISSUES: IT IS PREMATURE TO ADOPT
DEFINITIVE BENCHMARKS AND RULES RELATING TO LOCAL
EXCHANGE ACCESS COMPETITION**

At the end of the NPRM, the Commission invited comments on issues relating to the transition of the local exchange access market from a monopoly to a more competitive one (§§92-100). The Commission observed, correctly in Sprint's view, that if and when market forces generated by competition are sufficient to assure reasonable rates, the price cap regulation now imposed upon local exchange carriers may become unnecessary. At the same time, the Commission -- also correctly in Sprint's view -- observed (§94) that LECs "currently dominate the provision of access services" and that continued regulation "may be necessary to protect both customers and competitors of the price cap LECs until and unless effective competition occurs." Nonetheless, the Commission expressed a desire to develop a transition plan to adapt price cap regulation to a more competitive local environment. To that end, it asked for comment on the present state of competition for local exchange and interstate access; the criteria that should be used for determining (a) when reduced or streamlined regulation for price cap LECs should take effect and (b) when a LEC can be said to no longer control essential bottleneck facilities; and information regarding the CAPs' actual and potential ability to compete with the LECs. The Commission solicited specific proposals for reducing price cap regulation as LEC services become subject to greater competition, including revisions to the

price cap baskets and to the monitoring, service quality and network reliability reporting requirements. Finally, the Commission sought comment on when it should next review the price cap LECs' performance, how often it should conduct subsequent reviews, and whether it should adopt changes in other rules and policies as part of a price cap transition plan.

As indicated above, Sprint is sympathetic to the Commission's desire to avoid unnecessary strait-jacketing of price cap LECs if and when competition develops to the point that such regulation is no longer needed to fulfill the statutory mandate of reasonable and non-discriminatory rates. However, Sprint believes that access competition must become far more widespread and effective than it is today¹⁷ before the Commission should begin to consider less restrictive price cap regulation of access services of the LECs. Because competition is expected to develop unevenly between LECs and, indeed, within different service areas of an individual LEC, definitive benchmarks for when effective access competition can be found to exist and for determining how to transition from the current regulatory structure to streamlined regulation cannot reasonably be constructed at this time.

As a corporation, Sprint would welcome the development of effective and ubiquitous local competition both as a means of lowering its long distance access costs dramatically, as well as creating spurs to efficiency and new market opportunities

¹⁷ See Comments of Sprint Communications Co., filed November 1, 1993 in RM-8356, at 4.

for its local telephone operations. But, it is not clear when the day will come that effective local competition will exist on any wide geographic scale. It is also far from clear which alternative technology would be most likely to create a successful competitive challenge to the LECs.

Given the uncertainties as to whether, when and how effective local competition might develop, it is entirely premature to consider adoption, in this rulemaking, of a specific transition plan or hard-and-fast criteria for determining when effective competition exists. Only if and when such competition begins to develop, and upon a showing by the affected LECs that such competition has occurred to a significant degree, will the Commission be able to assess the nature and strength of that competition and fashion the appropriate relaxation of rules beyond that already proposed by Sprint in this proceeding.

In the meantime, there are other actions Sprint believes the Commission should take promptly that would create a more equitable means for allowing the LECs to respond to competition if and as it develops. Specifically, Sprint has shown above and Sprint Communications Co. and United have demonstrated in pending petitions for reconsideration in CC Docket Nos. 91-141 and 91-213, that the Commission should allow a more complete implementation of density zone pricing for special access and switched local transport services so that LECs may establish cost-based prices for these services in high, medium and low density zones. At the present time,

the price cap LECs are unnecessarily limited by the requirement that the initial price cap index be the same in both high and low density zones. This restriction discourages cost-based pricing, creates an artificial price umbrella in low-cost, high-density areas that encourages inefficient entry, and creates incentives for the LECs to respond to competition by offering non-cost-based volume discounts that favor their largest access customer at the expense of medium and smaller IXCs. Sprint believes the Commission should also extend density zone pricing to local switching rate elements. Although density is probably a less cost-causative factor for local switching than interoffice trunking, density-based variations in cost in all likelihood exist for these elements of the network as well, and there is no sound policy reason for requiring LECs to adhere to geographically averaged rates, particularly when the competition they face will not appear ubiquitously overnight.


Finally, the Commission should not only be prepared to respond to requests for changes in price cap regulation, if and when circumstances change, but should also commit to continue periodic review of the assumptions on which price caps are set to make sure that price cap regulations continue to provide the proper efficiency incentives for the local exchange industry. Sprint believes that a review of this plan in five years would probably suffice for that purpose.

IV. CONCLUSION

For the reasons set forth above, Sprint requests that the Commission adopt the recommendations for revisions to LEC price cap regulation discussed herein.

Respectfully submitted,

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ATTACHMENT 1

PERFORMANCE OF UNITED TELEPHONE UNDER PRICE CAPS

Despite overall inflation in the economy of 10.1% (as measured by the GNP-PI) from 1991 through 1993, United's aggregate weighted average Actual Price Index has dropped 4.4% since the implementation of price caps in January 1991 through year-end 1993. In real terms, United's interstate access rates have dropped 14.5% since the inception of price caps which equates to an approximate \$26 million decrease including \$3.5 million in rate decreases resulting from voluntary selection by some of the United companies of the more aggressive 4.3% productivity factor. United's APIs remain at or below the PCIs in every basket. United's overall interstate rate of return was 13.06% in 1991; 12.75% in 1992; and 14.02% in 1993.

United's operational performance has also been very good. Decreases in access rates have helped to stimulate access usage; interstate switched minutes of use carried by United increased 7.08%, and voice grade equivalent special access lines increased 9.68%, between 1991 and 1993. United has continued to meet its service standards; for example, it has satisfied its installation commitments in the overwhelming majority of cases,¹ and has decreased its outage line-minutes per access line (for unscheduled downtime of more than 2 minutes).²

¹ For the third quarter of 1993, the most recent data available, commitment levels met were 97.4% for switched

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Under price cap regulation, United has substantially improved its infrastructure: it has increased its total access lines by 11%; laid 99,943 miles of fiber (an increase of 118%); and increased its percentage of equal access lines from 72% to 92%. United also deployed SS7 to approximately 71% of its switched access lines, and equipped nearly 95% of its switches with digital technology. In contrast, at the end of 1990 (just before implementation of LEC price cap regulation), only 1.25% of United's switched access lines were SS7-capable, and 85% of its switches were digital. These infrastructure investments have enabled United to introduce several critical new services while subject to price cap regulation, including 800 database access;³ LIDB query; and generally available DS3 transport services.

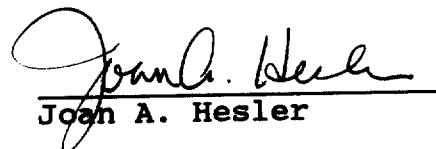
access installations; 93.0% for special access installations; 99.1% for local residential service installations; and 99.2% for local business service installations.

² The average was 1.82 in 1991 and 1.56 in 1993 (for the first 3 quarters).

³ Uniteds call set-up time meets the objective originally established for the BOCs.

CERTIFICATE OF SERVICE

I, Joan A. Hesler, hereby certify that I have this 9th day of May, 1994, hand delivered copies of the foregoing "Comments of Sprint Corporation" to the persons listed below.


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